

part of the goods applied for, with the result that registration cannot be precluded on the basis of Article 7(1)(c) of Regulation (EC) No 207/2009.

<sup>(1)</sup> Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (codified version) (OJ 2009 L 78, p. 1).

**Request for a preliminary ruling from the Landgericht Köln (Germany) lodged on 18 March 2013 — Zentrale zur Bekämpfung unlauteren Wettbewerbs eV v ILME GmbH**

(Case C-132/13)

(2013/C 164/18)

*Language of the case: German*

**Referring court**

Landgericht Köln

**Parties to the main proceedings**

*Applicant:* Zentrale zur Bekämpfung unlauteren Wettbewerbs eV

*Defendant:* ILME GmbH

**Question referred**

Are Articles 1, 8 and 10 of, and Annexes II, IV and III to, Directive 2006/95/EC of the European Parliament and of the Council of 12 December 2006 on the harmonisation of the laws of Member States relating to electrical equipment designed for use within certain voltage limits <sup>(1)</sup> to be interpreted in such a way that housings **as a component** of multipole connectors for industrial purposes are **not** to have a 'CE' marking affixed to them?

<sup>(1)</sup> OJ 2006 L 374, p. 10.

**Request for a preliminary ruling from the Rechtbank Den Haag (Netherlands) lodged on 28 March 2013 — Hamidullah Rajaby v Staatssecretaris van Veiligheid en Justitie**

(Case C-158/13)

(2013/C 164/19)

*Language of the case: Dutch*

**Referring court**

Rechtbank Den Haag

**Parties to the main proceedings**

*Applicant:* Hamidullah Rajaby

*Defendant:* Staatssecretaris van Veiligheid en Justitie

**Questions referred**

1. In the circumstances of the present dispute, in which there appears to be an evident infringement of European Union law which will continue to have consequences in the future, and in which, in the administrative phase, the parties exchanged views on the applicability of Article 14 of Regulation No 343/2003 <sup>(1)</sup> which they did not address again during the court proceedings, but on which the applicant also did not expressly rely during the court proceedings, is it contrary to European Union law if the court, by reason of the prohibition in national law on initiating a review of its own motion, does not address that issue?
2. Do the circumstances of the present dispute constitute dependency within the meaning of Article 15(2) of Regulation No 343/2003, that is to say, where the family members are a young woman without any education, from Afghanistan, who is accompanied by two children currently of 5½ and 3 years of age who are in her care and in relation to whose care and education she cannot rely on anyone other than her husband and father of the children, and on whose asylum application, moreover, a negative decision has been taken by the defendant because her account was considered to be wholly unbelievable, and that account can be supported by the statements of the applicant and by the (copies of the) documents which he has brought with him?

<sup>(1)</sup> Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (OJ 2003 L 50, p. 1).

**Request for a preliminary ruling from the Tribunal administratif de Melun (France) lodged on 3 April 2013 — Sophie Mukarubega v Préfet de police, Préfet de la Seine-Saint-Denis**

(Case C-166/13)

(2013/C 164/20)

*Language of the case: French*

**Referring court**

Tribunal administratif de Melun

**Parties to the main proceedings**

*Applicant:* Sophie Mukarubega

*Defendants:* Préfet de police, Préfet de la Seine-Saint-Denis

**Questions referred**

1. Is the right to be heard in all proceedings, which is an integral part of the fundamental principle of respect for the rights of the defence and is furthermore enshrined by Article 41 of the Charter of Fundamental Rights of the European Union, to be interpreted as requiring that, where the administration intends to issue a return decision in respect of an illegally staying alien, irrespective of whether or not that return decision is taken after a refusal of a residence permit, and in particular in a situation where there is a risk of absconding, the administration must enable the interested party to present observations?
2. Does the suspensive effect of the misuse of powers proceedings before the administrative court mean that it is possible to dispense with the prior right of an illegally staying alien to make his observations known with regard to the proposed removal measure to be taken against him?

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**Request for a preliminary ruling from the Conseil régional d'expression française de l'ordre des médecins vétérinaires (Belgique) lodged on 27 March 2013 — Jean Devillers**

(Case C-167/13)

(2013/C 164/21)

*Language of the case: French***Referring court**

Conseil régional d'expression française de l'ordre des médecins vétérinaires

**Party to the main proceedings***Applicant:* Jean Devillers**Question referred**

Must Article 3 of Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and Annex I thereto, Chapter I, entitled 'Fitness for transport', <sup>(1)</sup> paragraphs 1, 2 and 3, which provide that in cases of doubt veterinary advice is to be sought regarding the fitness for transport of an injured animal and, more specifically, regarding the assessment of the additional suffering that the transport would cause, be interpreted as precluding Article 11(4) of the Royal Decree of 9 July 1999 concerning the protection of animals during transport, <sup>(2)</sup> which allows the transport of an injured animal only where that transport does not cause unnecessary suffering?

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<sup>(1)</sup> Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97 (OJ 2005 L 3, p. 1).

<sup>(2)</sup> Royal Decree of 9 July 1999 concerning the protection of animals during transport and the conditions of registration of transporters and certification of traders, starting points and assembly centres (*Moniteur belge*, 2 September 1999, p. 32437).

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**Request for a preliminary ruling from the Tribunal de grande instance de Bayonne (France) lodged on 15 April 2013 — Raquel Gianni Da Silva v Préfet des Pyrénées-Atlantiques**

(Case C-189/13)

(2013/C 164/22)

*Language of the case: French***Referring court**

Tribunal de grande instance de Bayonne

**Parties to the main proceedings***Applicant:* Raquel Gianni Da Silva*Defendant:* Préfet des Pyrénées-Atlantiques**Question referred**

Does European Union law preclude national legislation under which illegal entry by a third-country national who has not been subjected to the coercive measures provided for in Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 is punishable by a sentence of imprisonment? <sup>(1)</sup>

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<sup>(1)</sup> Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ 2008 L 348, p. 98).

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**Action brought on 17 April 2013 — European Commission v Republic of Bulgaria**

(Case C-203/13)

(2013/C 164/23)

*Language of the case: Bulgarian***Parties***Applicant:* European Commission (represented by: O. Beynet, M. Heller and P. Mihaylova, acting as Agents)*Defendant:* Republic of Bulgaria